

ESTTA Tracking number: **ESTTA586878**

Filing date: **02/12/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205896
Party	Defendant Wild Brain Entertainment, Inc.
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Date	02/12/2014
Attachments	Wild Brain_s Answer to Third Amended Notice of Opposition.pdf(35884 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

Serial No. 85/509,929

ANSWER TO THE THIRD AMENDED NOTICE OF OPPOSITION

Applicant, Wild Brain Entertainment, Inc. (“Applicant”), by and through its undersigned counsel, hereby answers the Notice of Opposition in the above-captioned proceeding. The numbered paragraphs below correspond to the numbered paragraphs in the Third Amended Notice of Opposition. Applicant’s responses to Beau L. Tardy (“Opposer”) are based upon actual knowledge as to its own actions, and information and belief with respect to all other matters. Unless expressly admitted, all allegations in the Notice of Opposition are hereby denied.

Applicant denies the allegations set forth in the second paragraph of the introductory portion of the Notice of Opposition.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

2. Applicant admits the allegations as they relate to Applicant’s activities. Applicant is without knowledge or information as to Opposer’s activities sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

3. Applicant refers to United States Trademark Application No. 85/741,800 for a description of the goods and services recited therein. Applicant lacks knowledge as to Opposer's subjective belief as to the likelihood that the application will be refused.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

6. Applicant admits that Opposer has not asserted a trademark registration in this case. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in this paragraph, and therefore denies them in their entirety.

7. This paragraph sets forth legal conclusions to which no response is required.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

9. This paragraph sets forth legal conclusions to which no response is required.

10. Admitted.

11. Denied.

12. Denied.

a. Denied.

b. Applicant refers to pending U.S. Application No. 85509929 for a listing of the goods or services covered by the application.

c. Applicant admits only that on Sept. 2, 2013, the Office deemed U.S.

Application No. 85509933 to have been abandoned because no Statement

of Use or Extension Request was received by the Office following the issuance of the Notice of Allowance.

- d. Applicant admits only that on Sept. 2, 2013, the Office deemed U.S. Application No. 85509926 to have been abandoned because no Statement of Use or Extension Request was received by the Office following the issuance of the Notice of Allowance.
- e. Denied.
- f. Application refers to U.S. Application No. 85179735 for a listing of the goods or services covered by the application.
- g. Applicant admits that it owns U.S. Reg. No. 4358390.
- h. Applicant refers to U.S. Reg. No. 4358390 for a listing of the goods or serviced by covered by the registration.
- i. Denied.
- j. Denied.
- k. Denied.

13. Denied.

14. Denied.

15. Admitted.

16. Opposer's statements in this paragraph are vague and argumentative. Applicant thus cannot provide a response to the allegations in this paragraph as asserted.

17. Opposer's statements in this paragraph are vague and argumentative. Applicant thus cannot provide a response to the allegations in this paragraph as asserted.

18. Opposer's statements in this paragraph are vague and argumentative. Applicant thus cannot provide a response to the allegations in this paragraph as asserted.

19. Opposer's statements in this paragraph are vague and argumentative. Applicant thus cannot provide a response to the allegations in this paragraph as asserted.

20. Admitted.

21. This paragraph sets forth legal conclusions to which no response is required.

22. This paragraph sets forth legal conclusions to which no response is required.

23. This paragraph sets forth legal conclusions to which no response is required.

24. This paragraph sets forth legal conclusions to which no response is required.

25. Applicant is without knowledge or information as to Opposer's activities sufficient to form a belief as to the truth of the allegations set forth in this paragraph. Further, this paragraph sets forth legal conclusions to which no response is required.

26. Opposer's statements in this paragraph are vague. Applicant thus cannot provide a response to the allegations in this paragraph as asserted.

27. Opposer's statements in this paragraph are vague. Applicant thus cannot provide a response to the allegations in this paragraph as asserted.

28. This paragraph sets forth legal conclusions to which no response is required.

29. This paragraph sets forth legal conclusions to which no response is required.

30. This paragraph sets forth legal conclusions to which no response is required.

AFFIRMATIVE DEFENSES

31. Applicant reasserts and realleges the Affirmative Defenses contained in the Answer to the Second Amended Notice of Opposition, which are hereby incorporated by reference as though set forth in full herein.

WHEREFORE, Applicant prays that this Opposition be dismissed.

Dated: February 12, 2014

Respectfully submitted,

KENYON & KENYON LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Wild Brain Entertainment, Inc.'s *Answer to the Third Amended Notice of Opposition* was served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 12th day of February, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant